

**WEATHERLY BOROUGH COUNCIL**  
**REGULAR MEETING**  
**June 28, 2021**  
**4:00 P.M.**

***UNAPPROVED***

The Regular Meeting of Weatherly Borough Council was held on June 28, 2021, at 4:00 p.m. in the Municipal Building.

Mayor Paul Hadzick called the meeting to order.

Invocation by Theresa D'Andrea.

Council Members attending: Joseph Cyburt, Theresa D'Andrea, Norman Richie, Harold Farrow, Jeffery Miller, Joseph Thomas, and Paul J. Hadzick.

Also attending: Borough Manager, Harold Pudliner; Borough Solicitor, James Nanovic; Borough Secretary, Lori O'Donnell; Police Chief Brian Markovchick; Journal Newspapers reporter, Ruth Isenberg; Standard Speaker reporter, Jill Whalen; Edward Moyer (Live Streaming to Facebook) and citizens: Nancy Mulvaney, Deborah Kohler and Bill Beattie.

**MINUTES:**

The minutes of the Regular Meeting of May 24, 2021, were approved on a motion by Theresa D'Andrea, seconded by Joseph Cyburt, and approved by general acclaim of Council.

**TREASURER'S REPORT:**

The checking account balances as of May 31, 2021, totaled \$401,244.04.

The Treasurer's Report was approved on a motion by Joseph Cyburt, seconded by Norman Richie and by roll call vote:

Harold Farrow	Yes	Joseph Cyburt	Yes
Joseph Thomas	Yes	Theresa D'Andrea	Yes
Jeffery Miller	Yes	Norman Richie	Yes
Paul Hadzick	Yes		

**APPROVAL OF BILLS:**

The Manager provided a listing of the bills paid on June 6, June 10, June 17, June 24, and those to be paid on July 1, 2021, in the amount of \$299,077.58 and they were approved for payment on a motion by Joseph Thomas, seconded by Joseph Cyburt and on a roll call vote:

Joseph Thomas	Yes	Joseph Cyburt	Yes
Jeffery Miller	Yes	Harold Farrow	Yes
Theresa D'Andrea	Yes	Norman Richie	Yes
Paul Hadzick	Yes		

**OTHER ITEMS OF CONCERN:**

**Weatherly Hillclimb**

Joseph Cyburt thanked the Borough Manager, Mayor and Council for all of their help with the hillclimb and ironing out the problems with PennDOT. He also thanked the Police Department and the Standard

Speaker. Mayor Hadzick thanked Joseph Cyburt and the Hillclimb Organization for a good job with the hillclimb.

## **BUSINESS:**

### **1. Vote on Abandon Vehicle Ordinance, has been published for Removal.**

Mr. Pudliner stated the ordinance to be removed has been published and is ready to be voted on. He reminded Council that there are sections of the ordinance that are not legal and they have the abandon vehicle ordinance in the International Property Maintenance Code that can be followed.

#### **92-1. Purposes of provisions.**

The seriousness of the matter of the outdoor storage of abandoned, junked, discarded and unlicensed motor vehicles upon privately owned properties within the borough increases with the passage of time. It is a source of vexation and annoyance not only to the members of the traveling public but to the owners and occupants of adjoining lands. The outdoor storage of such vehicles upon residential lands is unsightly. It constitutes an attractive nuisance to children and a peril to their safety in case of fire and explosion whenever gasoline is left in the fuel tanks of such vehicles. It depreciates the value of neighboring properties. The preservations of peace and good order, the suppression of vice, the benefit of trade, the preservation of public health, the protection of property, the prevention and extinguishment of fires and explosions compel the Council of the Borough of Weatherly to legislate upon the matter. It is hereby declared that the adoption of this ordinance has for its purpose the effective termination of such obnoxious practice.

(Ord. 9-1967, 11/21/1967)

#### **92-2. Storage or deposit on residential land.**

It shall be unlawful for any person, either an owner, occupant, lessee, agent or otherwise, to store or deposit, or cause or permit to be stored or deposited, and abandoned, junked, discarded or unlicensed motor vehicle upon any open grounds or land within the corporate limits of the Borough of Weatherly, except as provided in Section 96-6 below.

(Ord. 9-1967, 11/21/1967)

#### **92-3. Notices to violators.**

If the provisions of the foregoing section are violated, the Borough Police Chief shall serve written notice, either personally or my mail, upon the owner, occupant or person having charge of any such land, to comply with the provisions of this ordinance. The notice shall be substantially the following form: [Ord. 9/14/1992]

#### **Notice**

To the owner, occupant or person having charge of land known in the Borough of Weatherly as (street number and name) Street or Avenue, Weatherly.

Notice is hereby given that an abandoned, junked, discarded and unlicensed motor vehicle has been found stored or deposited upon the above described property in the Borough of Weatherly. This automobile must be removed within five (5) days from date of this notice.

## VEHICLES, ABANDONED AND UNLICENSED

In case you fail or refuse to comply with this notice on or before the expiration of the said five (5) days from the date of this notice, the Borough of Weatherly, acting through its authorized agents, servants, officers and employees, will enter upon your land and remove and cause the same to be destroyed. The expense incurred by the borough will be assessed against the above described land and shall constitute a lien thereon and be collected as provided by law.

(Ord. 9-1967, 11/21/1967; as amended by Ord. 9/14/1992)92-4. Violations and penalties.

Any owner, occupant, lessee, agent or tenant who shall neglect and refuse to remove said abandoned, junked, discarded and unlicensed motor vehicle, as directed by this ordinance, or who shall fail or refuse to comply with the provisions of any notice herein provided for, or shall violate any of the provisions of this ordinance, or who shall resist or obstruct the duly authorized agents, servants, officers and employees of the borough on the removal and destruction thereof, shall be, upon conviction thereof, fined a sum of not exceeding one hundred dollars (\$100.) for each violation thereof. In addition to the penalty herein provided, the violation thereof shall constitute disorderly conduct, and the person violating the same shall be a disorderly person.

(Ord. 9-1967, 11/21/1967) 92-5. Severability.

The invalidity of any section, provision or portion of this ordinance shall not invalidate any other section, provision or remaining portion thereof.

(Ord. 9-1967, 11/21/1967)

### 92-6. Storage of Motor Vehicles Permitted.

It shall be unlawful for any person, firm or corporation, either as an owner, occupant, lessee, agent or otherwise, to store or deposit, or cause or permit to be stored or deposited, an abandoned, junked, discarded or unlicensed motor vehicle upon any commercial land within the corporate limits of the Borough upon the surface of such land, with the exception of any commercial establishment or business at which temporary storage of such vehicle is incidental or an accessory use to the primary purpose of the business. Where such exception applies, the commercial establishment or business must be lawfully operated and in compliance with all other ordinances of the Borough and must be located within a zoning district in which such commercial establishment or business is permitted as of right, by special exception or by order of the Zoning Hearing Board. In addition, the motor vehicle shall be kept free from vermin infestation while being stored.

{Ord. 99-6, 4/12/1999} 92-7. Definitions.

As used in this Ordinance, the following terms have the meanings indicated, unless a different meaning clearly appears from the context:

Abandoned, Junked, Unlicensed and Discarded Motor Vehicles - a motor vehicle that is so worn, deteriorated, obsolete, dismantled or disassembled as to make it inoperable or unusable in its existing condition due to mechanical defects and/or because it is not licensed and/or does not have

a current valid Pennsylvania inspection sticker. This definition shall also include a motor vehicle which is a nuisance.

Lessee - Owner for the purposes of this Ordinance when the Lessor holds the Lessee responsible for maintenance and repairs.

Motor Vehicle - Any type of mechanical device, propelled by a motor, in which persons or property may be transported upon public streets or highways. This definition shall include trailers, semi trailers, boats or campers pulled thereby.

Nuisance - Any condition which shall constitute a danger or potential danger to the health, safety or welfare of the citizens of the Borough of Weatherly.

Owner - The actual owner, agent or custodian of the property on which motor vehicle (s) are stored, whether individual or partnership, association or corporation.

Person - A natural person, firm, partnership, association, corporation or other legal entity.

A motion to approve the removal of the Abandon Vehicle Ordinance was made by Joseph Thomas, seconded by Jeffery Miller and approved on a roll call vote:

Jeffery Miller	Yes	Norman Richie	Yes
Joseph Cyburt	Yes	Harold Farrow	Yes
Theresa D'Andrea	Yes	Joseph Thomas	Yes
Paul Hadzick		Yes	

## **2. Discussion on Noise Ordinance.**

Mr. Pudliner stated he had presented this to them last year at a meeting and it was supposed to be reviewed at the next meeting, which they did not do, therefore we do not have a noise ordinance. There are just a few mentions of things in the Nuisance Ordinance that really does not cover much of anything. He added that there are complaints that cannot officially be acted on and this will at least give us something to fall back on.

Chief Brian Markovchick stated that there is an increase in noise complaints and the current ordinance is very vague to enforce. Solicitor Nanovic added that the noise ordinance has been circulated since last year. Jeffery Miller questioned who determines the noise level. Chief Markovchick said the officer's option and also by how many calls that they have received.

Joseph Cyburt stated that something needs to be done with the 4<sup>th</sup> of July coming up because of how it affects animals, fireworks start a few days before and after the holiday. Jeffery Miller asked if fireworks could be ban and Solicitor Nanovic said yes, fireworks can be ban, but in a separate ordinance. Joseph Thomas asked if something can be done about fireworks through the noise ordinance and Chief Markovchick answered yes it can because it is noise.

## **ORDINANCE NO. 2021-**

**AN ORDINANCE OF THE BOROUGH OF WEATHERLY REGULATING NOISE WITHIN THE BOROUGH AND PRESCRIBING PENALTIES FOR VIOLATIONS.**

**BE IT ENACTED** by the Borough Council of the Borough of Weatherly that the Borough Code of the Borough of Weatherly shall be amended to add a new Chapter entitled "Noise" as follows:

## **SECTION 1. DEFINITIONS**

***Daytime:*** 6:00 a.m. to 10:59 p.m. the same day.

***Designated Official:*** Designated Official shall be the person or official appointed by the Borough to enforce this chapter. If no person has otherwise been appointed, the Police Department of The Borough of Weatherly shall have the authority to enforce this chapter.

***Emergency:*** Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which necessitates immediate action. Economic loss shall not be the sole determining factor in the determination of an emergency. It shall be the burden of an alleged violator to prove an "emergency."

***Emergency work:*** Any work made necessary to restore property to a safe condition following an emergency, or to protect property threatened by an imminent emergency, to the extent such work is necessary to protect persons or property from exposure to imminent danger or damage.

***Nighttime:*** 11:00 p.m. to 5:59 a.m. the following day.

***Noise:*** Any sound which disturbs humans which causes or tends to cause an adverse psychological or physiological effect on humans.

***Noise disturbance:*** Any sound/noise which endangers, would endanger or is likely to endanger, or injures, would injure or is likely to injure, the safety or health of human or animals, annoys, would annoy or is likely to annoy, or disturb a reasonable person of ordinary sensibility; endangers, would endanger or is likely to endanger, or injures, would injure or is likely to injure, personal or real property; disturb, would disturb or is likely to disturb, the peace; or creates, would create or is likely to create, a nuisance or a violation of Section 2 of this Ordinance.

***Person:*** Any person, person's firm, association, copartnership, joint venture, corporation, or any entity public or private in nature.

***Plainly audible:*** Any sound or noise produced by any source, or reproduced by a radio, tape player, television, CD player, electronic audio equipment, musical instrument, sound amplifier or other mechanical or electronic sound making device, or nonamplified human voice that can be clearly heard by a person using his/her normal hearing faculties.

***Property boundary:*** Any imaginary line of any property, at the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person.

***Public right-of-way:*** Any street, avenue, boulevard, sidewalk, bike path or alley, or similar place normally accessible to the public which is owned or controlled by a governmental entity.

***Reasonable time:*** A radio, music or sound player or other mechanical sound making device or instrument within a motor vehicle is instantly. Otherwise, absent special circumstances, "reasonable time" is five (5) minutes.

**Section 2. Prohibited acts.**

A. General prohibition: It shall be unlawful for any person to make, continue or cause to be made, any loud, unnecessary, excessive or unusual noise or any noise which would constitute a noise disturbance.

B. Noise shall not be permitted to be heard during nighttime hours beyond the property boundary owned or occupied by any person.

C. Exemptions. The following uses and activities shall be exempt from the sound level and noise regulations:

1. Nonamplified human voice, except yelling, shouting, whistling, hooting, or generally creating a racket such that it creates a noise disturbance during the nighttime hours in a residential District in other than time of emergency.

2. Sounds resulting from any authorized emergency vehicle when responding to an emergency call or acting in time of emergency.

3. Sounds resulting from emergency work as defined in section 1.

4. Any aircraft operated in conformity with, or pursuant to, federal law, Federal Aviation Regulations and air traffic control instruction used pursuant to and within the duly adopted Federal Aviation Regulations; and any aircraft operating under technical difficulties in any kind of distress, under emergency orders of air traffic control, or being operated pursuant to and subsequent to the declaration of an emergency under Federal Aviation Regulations.

5. All sounds coming from the normal operations of interstate motor and rail carriers, to the extent that local regulation of sound levels of such vehicles has been preempted by the Noise Control Act of 1972 (42 U.S.C. § 4901 et seq.) or other applicable federal laws or regulations.

6. School concerts and music activities including marching band activities, sporting activities, art festivals, and student fundraisers.

7. Religious organizations conducting worship services of any types, including bells and chimes associated with services, holidays and celebrations.

8. The Borough of Weatherly, including, but not limited to, parks and recreation unit sponsored activities with musical components.

9. Any sound or activity caused by an event for which a special event/vendor permit has been issued by the Borough.

10. Any nonamplified noise generated by noncommercial public speaking activities conducted on any public property or public right-of-way pursuant to legal authority.

11. Sounds produced at organized sporting events, by fireworks and by permitted parades on public property or public right-of-way.

### **Section 3. Special permits.**

#### **A. Permit process.**

1. Applications for a special permit for relief from the noise restrictions in this chapter must be made in writing to the Borough Secretary with approval by the Borough Manager. In the absence of a Borough Manager, the Zoning Officer shall become the approving agent. Special noise relief permits may not be issued at a rate of more than one per 30 day period per property.

2. The permit application shall include the name, address and telephone number of the permit applicant; the date, hours and location for which the permit is requested; and the nature of the event or activity. If the proposed activity or event will involve entertainment, the Borough may also request the name and contact information for such individual(s). The application must be submitted at least ten days in advance of the event, not including holidays and weekends.

3. Payment of a fee of \$30.00, which fee may be amended by resolution of Borough Council.

4. Any permit granted must be in writing and shall contain all conditions upon which the permit shall be effective.

5. The Zoning Officer and/or Chief of Police and/or Weatherly Borough Council may prescribe any reasonable conditions or requirements he/she deems necessary to minimize noise disturbances upon the community or the surrounding neighborhood, including use of mufflers, screens or other sound attenuating devices.

6. The permit shall be posted at the activity.

#### **B. Permits may be granted under the following conditions:**

1. The permit shall be limited to a single day.

2. Permits shall be effective only between the hours of 8:00 a.m. and 10:00p.m.

3. No permit shall be issued to any applicant or any activity convicted of a violation or if pending conviction of this chapter within 365 days of the permit application.

C. Upon receipt of a properly executed and signed application, the Borough of Weatherly shall review the application and if appropriate, issue a special noise permit to the applicant, which permit shall exempt the premises specified in the permit from the provisions of this chapter for the date specified in the permit, except that sound emitted from the premises shall in no way be plainly audible 1,000 feet from the property boundary. The permit shall be issued or

denied within 10 days of submission of the complete application.

#### Section 4. Measurement or assessment of sound.

A. Any police officer or other designated official who hears a noise or sound that is plainly audible, as defined in Section 1, in violation of this chapter, shall assess the noise or sound according to the following standards.

1. The primary means of detection shall be by means of the official's normal hearing faculties, so long as the official's hearing is not enhanced by any device, such as a hearing aid.
2. The official must have a direct line of sight and hearing to the real property of the source of the sound or noise so that the official can readily identify the offending source of the sound or noise and the distance involved. If the official is unable to have a direct line of sight and hearing to the real property of the source of the sound or noise, then the official shall confirm the source of the sound or noise by approaching the suspected real property source of the sound or noise until the official is able to obtain a direct line of sight and hearing, and identify the identical or same sound or noise that was heard at the place of original assessment of the sound or noise.
3. The official need not determine the particular words or phrases being said or produced or the name of any song or artist producing the noise or sound. The detection of a rhythmic bass reverberating type of noise or sound is sufficient to constitute a plainly audible noise or sound.

#### Section S. Violation procedures.

##### A. Violation of sound level limits.

##### 1. Warnings:

- a. When a designated official of the Borough determines that there is a violation of section 2, the official may issue a written warning to the person or persons responsible for the sound. The warning shall advise the person of the violation.
- b. The person or persons receiving the warning shall have a reasonable time, as defined in section 1, to cease the noise disturbance.
- c. The person or persons responsible for prohibited sounds that have been warned or cited for one or more offending sounds of the same type within 365 days may be cited without another warning. In the situation of a business with ownership less than one year, current ownership would not be responsible for violations prior to ownership of the business.

##### 2. Citation.

- a. If the violation is not eliminated as per the terms of the Ordinance, the person so warned and not complying shall be cited for a violation of this ordinance.

##### B. Other limits; complaint procedure.

1. Any complaint regarding a sound or noise disturbance based solely on its disturbing a reasonable person of normal sensitivities must be filed by a person who is disturbed by the sound or noise. The complaint may be filed at the time of the disturbance or within 5 days of the noise disturbance.



2. When a complaint has been received, a designated official shall investigate the charges. If the official finds probable cause to believe the owner/operator is in violation of this chapter, the official shall issue a warning to cease and desist the violation.

3. If the owner/operator does not take corrective action within a reasonable time as defined in section 1, or if the noise or sound is abated after warning and then reoccurs, the official may issue a citation or file a sworn complaint with the Borough and/or the police department.

C. Any person who violates any provision of this ordinance shall be subject to a fine of one hundred fifty dollars [\$150.00] for the first offense, two hundred fifty dollars [\$250.00] for the second offense, three hundred seventy-five dollars [\$375.00] for the third offense, five hundred dollars [\$500.00], etc. not to exceed a maximum amount of one thousand dollars [\$1,000.00] per incident plus each court cost. If the violation is of a continuing nature, each day during which it occurs shall constitute an additional, separate, and distinct offense.

#### Section 6. Repealer:

All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

#### Section 7. Effective Date:

This Ordinance shall become effective five (5) days after enactment.

#### Section 8. Severability.

If any sentence, clause, section or part of this ordinance for any reason is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not effect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this ordinance. It is hereby declared as the intent of the Borough of Weatherly that the Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

A motion to advertise the Noise Ordinance as presented was made by Norman Richie, seconded by Theresa D'Andrea and approved by general acclaim of Council.

### **3. Addition to the Electric Ordinance has been Published and Ready for Vote.**

Mr. Pudliner stated that the addition to the Electric Ordinance had been published and is ready for Council to vote on it.

*Power department may refuse to serve or to continue to serve premises within the requirements of this section are not carried out*

#### **27-52 Sale and/or resale of electricity by others prohibited.**

- A. The Borough of Weatherly prohibits any electric generation supplier from serving end -use customers within the limits of the Borough of Weatherly
- B. No person shall purchase electric energy from the Light and Power Department and resell such energy
- C. Customer service generation will be allowed in the Borough subject to the Borough of Weatherly technical requirements for customer owned generation. [1] Such technical requirements may be amended from time to time by Weatherly Borough Council by resolution.

*[1] Editors Note: Said technical requirements are on file in the Borough Office*

A motion to approve the addition to the Electric Ordinance was made by Joseph Thomas, seconded by Joseph Cyburt and approved on a roll call vote:

Joseph Cyburt	Yes	Harold Farrow	Yes
Theresa D'Andrea	Yes	Joseph Thomas	Yes
Norman Richie	Yes	Jeffery Miller	Yes
Paul Hadzick	Yes		

#### **RESOLUTION 2021-**

#### **A RESOLUTION OF THE BOROUGH OF WEATHERLY FOR THE TECHNICAL REQUIREMENTS FOR CUSTOMER OWNED GENERATION TO BE ADDED TO THE ELECTRIC ORDINANCE**

**WHEREAS**, the Borough Council of Weatherly Borough adopted ordinance 2021-3 on June 21, 2021;and

**WHEREAS**, the ordinance provides that the Borough Council may add technical requirements for customer owned generation; and

**WHEREAS**, technical requirements have been prepared by the Borough Engineer;

**NOW THEREFORE**, the Borough Council of Weatherly Borough hereby adopts the technical requirements for customer owned generation which are attached hereto in full.

This Resolution was adopted the 28<sup>th</sup> day of June, 2021 in lawful session duly assembled.

A motion to adopt the resolution for the electric ordinance was made by Joseph Thomas, seconded by Joseph Cyburt and approved on a roll call vote:

Theresa D'Andrea	Yes	Harold Farrow	Yes
Joseph Thomas	Yes	Norman Richie	Yes
Jeffery Miller	Yes	Joseph Cyburt	Yes
Paul Hadzick	Yes		

#### **4. Discussion on Burn Ordinance.**

Mr. Pudliner provided Council with a copy of the existing ordinance and this new proposed ordinance. Presently we do not have any regulation on recreational burning (such as firepits, etc.) we just have a non-enforceable policy.

Solicitor Nanovic stated that the current burn ordinance is old and Lehighton Borough adopted a burn ordinance similar to this ordinance. Joseph Thomas stated that he was still receiving complaints about residents burning. Chief Markovchick said the new ordinance clears up issues and opens it up for fireplaces and fire pits. Others burn pallets and they receive complaints of smoke odor. Harold Farrow said that residents should be allowed to burn on Saturdays. Chief Markovchick said the new ordinance allows burning on Saturdays. Joseph Cyburt said that houses are close and sometimes he has to close his windows because of burning. He is against burning. Solicitor Nanovic stated that Section 7 explains burning days.

## **ORDINANCE NO. 2021 -**

**AN ORDINANCE OF THE BOROUGH OF WEATHERLY, CARBON COUNTY, COMMONWEALTH OF PENNSYLVANIA FOR THE PREVENTION AND CONTROL OF AIR POLLUTION; DEFINING CERTAIN TERMS USED HEREIN; PROVIDING FOR REGULATIONS, REQUIREMENTS, EXCEPTIONS, ENFORCEMENT ORDERS, PENALTIES, REPEALER, VALIDITY.**

### **SECTION I. Title**

This Ordinance shall be known as cited as the Weatherly Borough Air Pollution Control Ordinance.

### **SECTION II. Authority**

The Borough Council of Weatherly Borough, under and by virtue of and pursuant to the authority granted by the Borough Code, do hereby enact and ordain this Ordinance.

### **SECTION III. Policy**

Whereas, the Borough Council of Weatherly Borough has determined that air pollution from open burning may be detrimental to the health, comfort, living conditions, welfare, and safety of the citizens of Weatherly Borough, it is hereby declared to be the policy of Weatherly Borough to safeguard the citizens of Weatherly Borough from such air pollution.

### **SECTION IV. Definitions**

The following words, terms, and phrases, when used in this ordinance, unless the context clearly indicates otherwise, shall have the following meanings ascribed to them:

(1) Burning - The act of consuming by fire; to flame, char, scorch, or blaze. As used in this ordinance, smoldering shall have the same meaning as burning and any smoldering shall be deemed a burning.

(2) Council-The Borough Council of the Borough of Weatherly.

(3) Domestic refuse - Waste which is generated from the normal occupancy of a structure occupied solely as a dwelling by two families or less. The term does not include appliances,

carpets, demolition waste (insulation, shingles, siding, etc.), furniture, mattresses or box springs, paint, putrescible waste, solvents, tires, or treated wood.

(4) Municipality - The Borough of Weatherly.

(5) Open burning - A fire, the air contaminants from which are emitted directly into the outdoor atmosphere are not directed thereto through a flue.

(6) Person - Any individual, public or private corporation for profit or not for profit, association, partnership, firm, trust, estate, department, board, bureau or agency of the

Commonwealth or the Federal Government, political subdivision, municipality, district, authority, or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.

- (7) Yard waste - Tree trimmings, chipped shrubbery, and other vegetative material.

## **SECTION V. Regulations**

No person may engage in or may permit the open burning of material with the exception of the following:

- (1) A fire set to prevent or abate a fire hazard, when approved by the Department of Environmental Protection's Regional Air Quality Program office and set by or under the supervision of a public officer.
- (2) Any fire set for the purpose of instructing personnel in firefighting, when approved by the Department of Environmental Protection's Regional Air Quality Program office.
- (3) A fire set for the prevention and control of disease or pests, when approved by the Department of Environmental Protection's Regional Air Quality Program office.
- (4) Fire shall be contained to free standing fire/pit ring or outside stove not to exceed four feet in diameter, or fire box more than 36 cubic feet unmanufactured state on the premises of the farm operation.
- (5) A fire set for the purpose of burning that amount of yard waste generated from the premises of a structure occupied solely as a dwelling by two families or less when the fire is on the premises of said structure.
- (6) A fire set solely for cooking food.
- (7) A fire set solely for recreational or ceremonial purposes.

## **SECTION VI. Requirements**

- (1) In no event shall the location of any such fire be less than ten feet (10') from any structure, inhabited or uninhabited, or any property line.
- (2) Outdoor fires must be personally attended at all times by persons eighteen (18) years of age or older. For the purpose of this ordinance, a fire shall be considered to be actively burning if it is radiating heat and/or producing smoke even though no flames are present. Smoldering fires are not permitted.
- (3) Outdoor burning is not permitted during any adverse environmental conditions, such as temperature inversions, fogs, low clouds ceilings, high wind conditions, dry weather conditions including dry weather alerts issued by the County Emergency Management Agent, the Pennsylvania Emergency Management Agency or the Pennsylvania Department of Environmental Protection or the National Weather Service.

## **SECTION VII. Residential /Agricultural District**

Notwithstanding the above, fires shall be permitted in the residential/agricultural (R-A) district provided such burning takes place between 8:00 a.m. and 6:00 p.m. Proper notification should be given to the communications center that there is a controlled burn scheduled. And shall not be

located less than one hundred (100) feet from any structure, whether such structure be a house, garage, out building or otherwise. Further, the only items which will be permitted to be burned in this district at the times set forth above shall be trees, shrubs, leaves, crops, or other yard waste.

#### **SECTION VIII. Enforcement Order**

The Borough of Weatherly Police Department shall have the power and duty to enforce the provisions of this ordinance.

The Borough of Weatherly may issue such orders as are necessary to aid in the enforcement of the provisions of this ordinance. These orders shall include, but shall not be limited to: orders requiring persons to cease unlawful open burning which, in the course of its occurrence, is in violation of any provision of this ordinance; orders to take corrective action or to abate a public nuisance; orders requiring the testing, sampling, or monitoring of any open burning; or orders requiring production of information. Such an order may be issued if the Borough of Weatherly finds that the condition existing in or on the facility or source involved is causing or contributing to open burning or if Weatherly finds that any person is in violation of any provision of this ordinance.

#### **SECTION IX Violations and penalties**

Any person or party who violates or fails to comply with any of the above provisions shall upon conviction thereof be sentenced to pay a fine of \$100.00 (One-hundred dollars), plus costs of prosecution, for the first offense; and fines increasing by \$100.00 for each subsequent offense up to \$1,000.00 (One-thousand dollars), within a period of one (1) year. In default of such fines and costs, the violating person shall be subject to imprisonment for a period of not more than ten (10) days.

#### **SECTION X Repealer**

Chapter 13 of the Borough Code previously enacted is hereby repealed. All other ordinances or parts thereof which are in conflict with this ordinance are hereby repealed.

#### **SECTION XI Validity**

The provisions of this ordinance are severable, and if any section, clause, sentence, part, or provision thereof shall be held illegal, invalid, or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, clauses, sentences, parts, or provisions of this ordinance. It is hereby declared to be the intent of the Borough Council that this ordinance would have been adopted if such illegal, invalid, or unconstitutional section, clause, sentence, part, or provision had not been included herein.

#### **SECTION XII Effective Date**

This ordinance shall become effective five (5) days after enactment

A motion to authorize the solicitor to advertise the Burning Ordinance was made by Joseph Thomas, seconded by Joseph Cyburt and approved on a roll call vote:

Harold Farrow	Yes	Joseph Cyburt	Yes
Joseph Thomas	Yes	Theresa D'Andrea	Yes
Jeffery Miller	Yes	Norman Richie	Yes
	Paul Hadzick	Yes	

**5. Authorize Solicitor to Publish Ordinance Establishing Police Department.**

Mr. Pudliner said our Police Department is working toward getting the department accredited, which among other things will help to lower our insurances. But in order to do this there are a lot of policies and procedures that have to be written and one is having an ordinance establishing a police department.

Chief Markovchick explained to Council that the ordinance was updated in 1954 and in 1968 it was taken out. They need the ordinance in place for the Police Department to be accredited. Joseph Thomas questioned Mr. Nanovic as to how they would need to fix this problem. Mr. Nanovic said the Chief Markovchick and Mr. Pudliner worked on putting the ordinance together.

**ORDINANCE NO.**  
**2021-**

**AN ORDINANCE OF THE BOROUGH OF WEATHERLY  
RECOGNIZING AND REESTABLISHING A POLICE  
DEPARTMENT**

The Borough Council of Weatherly Borough hereby ordains as follows:

- 1. Department established.** The existing Weatherly Police Department is hereby recognized and re-established in and for the Borough of Weatherly.
- 2. Mission and responsibilities.** The mission of the Police Department shall be to preserve and protect the public safety, security, and tranquility of the Borough and to firmly and fairly enforce the laws of the United States of America and the Commonwealth of Pennsylvania and the ordinances of Weatherly Borough. The Department shall engage in a broad range of public services but shall give foremost priority to the deterrence, where possible, of criminal activity in the Borough and the investigation and prosecution of criminal activity in the Borough.
- 3. Governance of the Department.** The Borough Manager is the Chief Executive and the Administrative Official of the Borough of Weatherly, and as such, shall have responsibility for the direction of the Department in accordance with the Weatherly Borough Code. The Chief of Police shall serve as the Chief Executive Officer of the Department and shall be responsible for the day-to-day direction and supervision of the Department.
- 4. Reports.**
  - A.** The Chief of Police shall regularly, at not less than monthly intervals, report in writing to the Borough Council regarding the activities and performance of the Department. Such reports shall specifically include, but not be limited to, information regarding:
    1. The frequency with which citizens of the Borough summon police assistance.
    2. The incidence of serious crime in the Borough, and the performance of the Department in solving this crime.
    3. The number of motor vehicle accidents occurring, and the number of moving and parking violation citations issued by the Department.

4. Major personnel actions, to include changes in personnel, training courses completed, disciplinary actions taken and the like.
5. Extraordinary problems encountered by the Department, and special needs for assistance which the Council may address by fiscal or other actions.

B. The Chief of Police shall respond, at the time such reports are rendered, to any questions regarding Department affairs which may be posed by members of the Borough Council.

5. **Officers**

A. The following classifications of officers is hereby established for said Police Department.

- (1) Chief of Police.
- (2) Sergeant.
- (3) Police Officer.

1. The Council shall, subject to the civil service provisions of the Borough Code, designate and appoint by proper resolution the individuals assigned to each such office. The chain of command among the various classifications shall be in the order above listed.

6. **Duties**

The following duties are prescribed by performance by the various classifications of officers.

1. Chief of Police. The Chief of Police shall supervise the Department and shall have active charge of any police office or station maintained by the Department.
  - (1) Administrative duties. It shall be the responsibility of the Chief of Police to:
    - (a) Supervise subordinate officers.
    - (b) Coordinate the activities of his Department with those of other officers and officials of the Borough and other police agencies, local, county and state.
    - (c) Be responsible for all property belonging to the Department and distribute the same as needed, taking a receipt therefor from the officer to whom entrusted.
    - (d) Nominate such persons to the Borough Council who have completed a course of training as may be prescribed for part-time police officers.
    - (e) Answer to the public and the press any questions about the Police Department's functions or activities.

- (f) Report all charges preferred against any officer, be present at their investigation and keep a record of the charge, evidence presented and defense offered.
  - (g) Recommend to Borough Council any and all part time officers who are no longer needed for active duty or who have failed to or refused to perform duties lawfully assigned to them by said Chief.
- (2) Supervisory duties. In the performance of his supervisory duties, he shall:
- (a) Confer frequently with the Borough Manager, securing policy guidance from the Borough Manager and translating this information into operating procedures and deployment plans for The Department.
  - (b) Detail such orders to the members of the police force as to the time, place, and manner of the performance of their duties.
  - (c) Inspect all members of the police force from time to time, supervise their general conduct and observe and evaluate their performance of duty.
  - (d) Prepare or cause to be prepared and post work schedules for all subordinate officers of the Department.
  - (e) Investigate or cause to be investigated any and all crimes reportedly committed within the Borough.
  - (f) Detail orders to members of the Police Department during any period of distress, disaster, or emergency.
  - (g) Detail orders to Police Officers of adjoining municipalities as may be assigned to the Borough of Weatherly by the Commissioner of the Pennsylvania State Police to meet with any disaster or emergency.
  - (h) Investigate or cause to be investigated any and all crimes reportedly committed within the borough, personally report whenever available to the scene of any alleged felonies and investigate the same, report promptly whenever available to all serious catastrophes within the borough and assume command of the police officers there present and restore and maintain order.
  - (i) Carry out all duties imposed upon him, by law, and by direction of lawfully constituted authority.
- (3) At all other times he shall perform the duties of a police officer.



B. **Sergeant.** The Sergeant is hereby constituted to be the second officer in command of the Police Department. His duties shall consist of the following:

(1) In the absence of the Chief of Police by reason of vacation, illness or any other cause deemed appropriate by the Borough Council, or when the Chief of Police shall designate the Sergeant to act in his place according to the regulations of the department and shall report directly to the Borough Manager when designated to act in place of the Chief of Police.

(2) At all other times he shall perform the duties of a police officer hereinafter provided.

C. **Police Officer.** The Police Officer shall have the duties consisting of the following:

(1) Faithfully serve and protect the citizens of the Borough, uphold his oath of office, and enforce all appropriate laws and ordinances.

(2) Report on duty in approved uniform at the police station or at such other place as may be specifically ordered by the Chief of Police at such reasonable times as may be specified by regular posted schedules.

(3) Promptly and obediently observe and carry out his assigned duties as may be detailed by the Chief, and he shall perform his duty as to manner, time, and place in strict compliance with the directions of the Mayor or special orders and bulletins issued by the Chief of Police.

(4) Report to the Chief of Police or, in his absence, the next police officer in command, as soon as reasonably it may be done, the commission of any felony or major misdemeanor within the Borough of Weatherly that has been brought to his attention.

(5) Make daily entry upon the Police Reporting system of all information and fact of which he may have knowledge concerning the commission of any crime, the occurrence of any fire, disturbance or accident or the existence of any condition which may affect the health, safety, or welfare of the public or citizens of said Borough of adjoining communities.

(6) Make report by police radio and take appropriate action in case of any crime or summary violation of the law, fire, disturbance, or other matter requiring police action that should occur during his assigned tour of duty.

(7) Attend such course of training at any training school for police officers as may be designated by the Council or required by law.

## 7. **General Regulations.**

A. The following regulations shall apply to every member of the Police Department.

(1) The Chief of Police shall create and maintain on a current set comprehensive rules and regulations to guide and instruct all members of the Department. Copies of such rules and regulations shall be made available for the information of the Borough Council.

(2) Security. No member of the Department shall communicate any information to any nonmember concerning any order of information of a departmental or confidential nature unless said order or information concerns that nonmember or is disclosed by permission or direction of his superior.

(3) Professional discipline shall be maintained by all members of the Department

(4) Communication within the Department shall be affected solely through the immediate superior, and no member shall publicly speak critically or in a derogatory manner regarding any rule and regulation, order or bulletin of the Department. In the event that any member feels that he or she has just reason to believe that any rules or regulations, orders or instructions are inconsistent, unfair or unjust, he or she may request their immediate superior to bring this matter to the attention of the Borough Manager

A motion to authorize the solicitor to Publish the Ordinance establishing the Police Department was made by Norman Richie, seconded by Jeffery Miller and approved on a roll call vote:

Joseph Thomas	Yes	Joseph Cyburt	Yes
Jeffery Miller	Yes	Harold Farrow	Yes
Theresa D'Andrea	Yes	Norman Richie	Yes
	Paul Hadzick	Yes	

#### **6. Request for Donation to the Library.**

Mr. Pudliner said that he received a request for a donation to the library. He said that we normally do this and the last time we gave a donation it was for \$1,000, but Council can give whatever they see fit. Donations are budgeted. He also informed Council that the Library Auction is to be held at Eurana Park pavilion on Friday June 25<sup>th</sup> and Saturday June 26<sup>th</sup>.

A motion to make a \$1,000 donation to the Weatherly Library was made by Joseph Thomas, seconded by Theresa D'Andrea and approved on a roll call vote:

Jeffery Miller	Yes	Norman Richie	Yes
Joseph Cyburt	Yes	Harold Farrow	Yes
Theresa D'Andrea	Yes	Joseph Thomas	Yes
	Paul Hadzick	Yes	

#### **7. Disaster Declaration Ended.**

Mr. Pudliner said that it was time to end the Weatherly Borough Covid 19 Disaster Declaration since the State of Pennsylvania had ended their Covid 19 Disaster Declaration.

The Covid 19 Disaster Declaration ended for Weatherly Borough with no action required from Council.

#### **8. Authorize Manager to Bid Upcoming Projects.**

Mr. Pudliner stated the there were some projects that will be coming up on bidding very soon. The first will be the work under the "Industrial Reuse Grant" and that is the bid on the work to encapsulate the areas of the steel plant with asphalt and concrete walkways, as well as grass area and fencing. The second project will be und eth Weatherly Trail, where we will be bidding the construction of the trail

from the steel plant to the convergence of the Hazle Creek and the Quakake Creek and possibly the bridge work. The third project will be the painting of the water tank.

Mr. Pudliner told Council that the reason for permission now is that once some preliminary work is completed, they will be ready and he did not want to lose a month waiting for another meeting to ask to put them out to bid. The bid opening will naturally be at a regular meeting or a special meeting depending on the timing.

A motion to authorize the Borough Manager to bid upcoming projects was made by Theresa D'Andrea, seconded by Joseph Cyburt and approved by roll call vote:

Joseph Cyburt	Yes	Harold Farrow	Yes
Theresa D'Andrea	Yes	Joseph Thomas	Yes
Norman Richie	Yes	Jeffery Miller	Yes
	Paul Hadzick	Yes	

**9. Authorize Use of Park for Festival.**

The Festival Committee decided to hold the town festival on August 27<sup>th</sup> and 28<sup>th</sup> and they requested permission to use the park and to close Third Street from Blakeslee Avenue to the lower entrance to the park. The fire house beer stand will meet the usual criteria to sell beer. The use of the park includes the ballfield, parking lot and park.

A motion to authorize the use of Eurana Park for the festival was made by Theresa D'Andrea, seconded by Joseph Cyburt and approved by general acclaim of Council.

**OTHER ITEMS OF CONCERN**

**Steel Plant**

Harold Farrow questioned the status of the steel plant property. Mr. Pudliner stated that Mr. Umbriac had a problem with crusher and needs parts, but can not get them. He has to rent equipment at this point.

**EXECUTIVE SESSION**

A motion to enter executive session at 4:28 pm for personnel matters was made by Joseph Thomas, seconded by Jeffery Miller and approved by general acclaim of Council.

A motion to exit executive session at 4:39 pm was made by Norman Richie, seconded by Joseph Cyburt and approved by general acclaim of Council.

**10. Hiring of Full-Time Police**

A motion to hire Joshua Silfee and Danilo Garcia as full-time police officers was made by Joseph Thomas, seconded by Joseph Cyburt and approved by roll call vote:

Harold Farrow	Yes	Joseph Cyburt	Yes
Joseph Thomas	Yes	Theresa D'Andrea	Yes
Jeffery Miller	Yes	Norman Richie	Yes
	Paul Hadzick	Yes	

**OTHER ITEMS OF CONCERN**

- Ruth Isenberg thanked Council for the Library donation and the auction will be taking place in October this year.

- Joseph Thomas and Joseph Cyburt sat down and came up with an offer for the hillclimb shelter. They would like to have fresh vegetables; vendors and a craft show sometime at the shelter. Joseph Cyburt stated that the grant stipulates other uses for the shelter.
- Joseph Thomas said he was working with Mike Bellizia and the owners of the old bank building on Carbon Street to use for an art display.
- Joseph Thomas would like to have a Community Clean Up to clean up the area from the strip mall to East Main Street and the waterfall park. Paul Hadzick said they can go ahead with the cleanup; they do not need Council's permission. Mr. Thomas would like to establish a committee and come up with a plan. Paul Hadzick said there was no need to establish a committee. Joseph Cyburt stated that the strip mall needs to be cleaned up.
- Harold Farrow questioned the status of the waterfall park. Mr. Pudliner said as soon as he can get people there it will be addressed.
- Harold Farrow said that there is a hole in Dean Gray Alley. Mr. Pudliner said as soon as he can get help it will be addressed.
- Mr. Pudliner drew Council's attention to the back drop on the back wall of the conference room. The back drop consists of panels made by Dawn's Vinyl Designs (Mike Bellizia) from a picture taken by Mr. James Wetzel of the east side of town.

#### **ADJOURN:**

A motion to adjourn the meeting at 4:48 pm was made by Norman Richie, seconded by Joseph Cyburt.